



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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October 22, 2009

TECHNICAL STAFF REPORT

*Petition Accepted on May 7, 2009
Planning Board Meeting of November 5, 2009
County Council Hearing to be scheduled*

Case No./Petitioner: ZRA-118 – MDG Companies, Agent for the Owner

Request: Zoning Regulation Amendments to amend Section 127.2, the CE (Corridor Employment) District "...to increase the flexibility of uses within this zone in the Route 1 corridor by increasing the amount of first floor retail in office buildings and to decrease the minimum size of parcels within the zone permitting uses allowed in larger CE zone properties."

Department of Planning and Zoning Recommendation: PARTIAL APPROVAL WITH REVISIONS

I. DESCRIPTION OF PROPOSAL

The Petitioner proposes six amendments to Section 127.2, CE (Corridor Employment) District, in the Zoning Regulations. Each proposed amendment is generally described as follows:

1. Currently, Section 127.2.C.1. concerning "Commercial uses within office buildings, hotels or parking structures" allow otherwise unallowable retail, restaurants, and commercial services within such buildings or structures, but with limitations. In a two-story building/structure they are limited to 15 percent of the floor area of the building/structure but in a four-story and above building/structure, this may be increased to 20 percent.

The Petitioner proposes that in a two-story building/structure they cannot exceed the amount of floor area on the first floor of the building/structure but in a four-story and above building/structure, this may be increased to 25 percent or the amount of floor area on the first floor of the building/structure, whichever is less.

2. In the list of the allowable commercial services within such office buildings, hotels or parking structures, banks are allowed but are limited to one drive-through lane. The Petitioner proposes to increase this to two drive-through lanes.

I. DESCRIPTION OF PROPOSAL

3. Similarly, in the list of the allowable commercial services within such office buildings, hotels or parking structures, fast food restaurants are allowed but only if there is no drive-through service. The Petitioner proposes to allow drive-through service for such fast food restaurants if "...it is enclosed and integral to the structure."
4. Section 127.2.C.2. concerning "Commercial Uses In Freestanding Buildings" currently allows otherwise unallowable restaurants and commercial services as the sole or primary user of a building, but only in a development of 20 gross acres or larger, and with other limitations. The Petitioner originally proposed to reduce the qualifying minimum development size to 5 gross acres, and by a later revision now proposes a minimum of 4 gross acres.
5. Related to Amendment No. 4 above, one of the other limitations in Section 127.2.C.2. is that the cumulative floor area of these freestanding restaurants and commercial services buildings cannot exceed 500 square feet per acre of the CE zoned land in the development. The Petitioner proposes that this 500 square feet per acre limitation be deleted entirely.
6. The current CE setback regulation requirements from the right-of-way for external public streets are 20 feet for all structures and uses, except that parking, loading, outdoor storage, dumpsters and screening fences for these units must be 40 feet. The Petitioner proposes no setback requirements (i.e., zero feet) from the US 1 right-of-way.

The subsections proposed to be amended and the amendment text is attached as Exhibit A – Petitioner’s Proposed Text (CAPITALS indicates text to be added; text in [[brackets]] indicates text to be deleted)

Please note there are two areas in which the proposed text as shown on Exhibit A differ slightly from the printed proposed text the Petitioner attached to the petition. The first instance is in Section 127.2.C.1.b.; the deletion of 20 percent and the revision to 25 percent is clear, but it is not clear how the printed proposed text that follows “25” is meant to fit into the existing text. In Exhibit A, the proposed text for this amendment is shown as it is best assumed to fit, and the Petitioner should confirm whether that is what is intended.

The second instance is the proposed amendment to Section 127.2.E.2.a. Here, due to a previous ZRA that became effective after ZRA 118 was originally submitted, the numbering of the items following “From External Public Street Right-of-Way” is different than as shown on the Petitioner’s printed proposed text. Exhibit A shows the intended proposed text based upon this new numbering.

II. EXISTING REGULATIONS

- # **The CE District regulations were of course originally adopted with the 2004 Comprehensive Zoning Plan. Since that time, there have been three amendments to Section 127.2.**

The first was ZRA 90, effective in January, 2008, which added “Housing Commission Housing Developments” as a use permitted as a matter of right. This same use was added to a number of other zoning districts as well.

The second was ZRA 94, effective in June, 2008, which added the Section 127.2.c.2.b. category allowing “Athletic Centers” as a commercial use in freestanding buildings, subject to certain criteria.

The most recent was ZRA 104, effective in April, 2009, which was a petition submitted by DPZ to accomplish a number of different changes to the CE, TOD and CAC Districts. The amendment to the CE District was to create a requirement for an amenity area for developments of 5 or more acres, and to establish a setback of zero feet from the right-of-way for amenity areas.

- # **In comparison to these previous amendments, the proposed ZRA 118 involves revisions to the district which are certainly not complicated and are seemingly straightforward, but which would have a relatively significant impact on many of the intended purposes for the CE District.**

III. BACKGROUND INFORMATION

A. Scope of Proposed Amendments

- # **In general, most of the proposed amendments could affect almost any CE District property or development, except that Amendment No. 4 would technically only affect properties of four acres or larger. The proposed amendments would not affect any other zoning district directly.**

B. Agency Comments

- # **The following agencies had no objections to the proposal:**

1. Department of Recreation & Parks
2. Bureau of Environmental Health
3. Department of Fire and Rescue Services
4. Department of Inspections, Licenses and Permits

IV. EVALUATIONS AND CONCLUSIONS

A. Relation to the General Plan

- # **The various Route 1 revitalization efforts, of which the CE District is but one part, were directed by the initial goal for Corridor Revitalization Studies as envisioned in Community Conservation and Enhancement Policy 5.11 to “Make existing commercial centers and strip commercial-industrial corridors more efficient and attractive, and give them a more positive role in communities.”**

After the study for Route 1 was completed, the several new Corridor Districts were created during the Comprehensive Zoning process; each with different intentions, but all with the main purpose of eventually leading towards a new Route 1 Corridor that better meets the goals of the community.

While it is true that since 2004 there have been comments from developers on the need to reconsider the CE District regulations, it would seem best if this were done on a more comprehensive basis, rather than through an individual ZRA proposal such as ZRA 118.

B. Relation to the Zoning Regulations

- # **The purpose of the CE District is to encourage the development and redevelopment of unused or underutilized land near US 1. The goal is to reduce the spread of strip commercial development and to encourage consolidation of parcels, as stated in Section 127.2. A. concerning the purpose of the CE District. The Petitioner’s proposal to reduce the required amount of acres in a development project from 20 to 4 for freestanding buildings with commercial uses would almost certainly reduce the incentive to consolidate parcels.**

The Petitioner also proposes to drop the requirement that these freestanding commercial buildings be limited to 500 square feet per acre in the development. A resulting increase in the number and sizes of freestanding commercial buildings would likely appear to spread strip commercial development along US 1, contrary to the goals of the district.

C. Other Comments

- # **Amendment No. 1 is not recommended as proposed because the potential amount of retail and commercial service space could exceed the purpose of the district as primarily an office-oriented district.**

However, the Department does recognize that a slight increase in the area for such uses within office buildings may be beneficial, so it may be acceptable if for a two-story building, the retail floor area limitation is increased to 20 percent, and for a three or more story building this could be increased to 25 percent.

IV. EVALUATIONS AND CONCLUSIONS

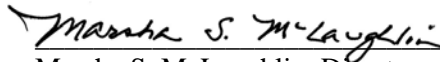
C. Other Comments

- # **Amendment No. 2 concerning allowing two drive-through lanes for banks is not recommended as proposed, but could be acceptable if the drive-through lanes are integral to the building, and are not visible from US 1.**
- # **Similarly, Amendment No. 3 could be acceptable if the drive-through lane is also not visible from US 1.**
- # **On Amendment No. 4 and Amendment No. 5, reducing the minimum acreage to 4 acres and eliminating the 500 square feet per acre limitation would create far too many pad sites, which would be in conflict with the purposes of the CE District as noted above. These two amendments should be denied entirely.**
- # **For Amendment No. 6, reducing the setback regulation requirements from the US 1 right-of-way from 20 feet for all structures and uses to zero feet, is not recommended. A revision to allow a setback of 10 feet could be acceptable because this would be similar to the requirement in the CAC District.**

V. RECOMMENDATION

PARTIAL APPROVAL WITH REVISIONS

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-118 as noted above, be APPROVED partially, with the revisions indicated in the attached Exhibit B – DPZ Proposed Revisions.


Marsha S. McLaughlin, Director

10/08/09
Date

MM/JRL/jrl

NOTE: The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.

ZRA 118 - Exhibit A – Petitioner's Proposed Text

C. Commercial Uses Permitted With Limitations

1. Commercial uses within office buildings, hotels or parking structures
 - a. The uses below are permitted as a matter of right in any building used primarily for offices or parking and having at least two stories. The cumulative floor area of these uses shall not exceed ~~[[15 percent of the floor area of the building]]~~ **THE AMOUNT OF THE SQUARE FOOTAGE OF THE FIRST FLOOR.**
 - b. The maximum floor area for these uses may increase to ~~[[20]]~~ **25 percent (OR THE AMOUNT OF SQUARE FOOTAGE OF THE FIRST FLOOR, WHICHEVER IS LESS** of each office building or parking structure having at least four stories and within a route one corridor development project.
 - c. The maximum floor area for these uses may increase to 50 percent of a multistory office building located on a shallow parcel that cannot be reasonably combined with adjoining parcels to create a significantly larger redevelopment site due to adjoining environmental features, existing land use or public roads. The parcel shall:
 - (1) Exist on April 13, 2004, the effective date of Council Bill 75 - 2003; and
 - (2) Have a developable area based on zoning and subdivision regulations that is within 300 feet of the Route 1 right-of-way.
 - d. The following uses are permitted in multi-story office, hotel or parking structures:
 - (1) Athletic centers, health clubs, tennis clubs and similar uses.
 - (2) Banks, savings and loan associations, investment companies, credit bureaus, brokers and similar financial institutions with a maximum of ~~[[one]]~~ **TWO** drive through lane having no more than four stacking spaces.
 - (3) Blueprinting, printing, duplicating or engraving services.
 - (4) Laundry and dry cleaning establishments without delivery services.
 - (5) Personal service establishments such as barber shops, beauty shops, opticians, photographers, tailors.
 - (6) Pizza delivery services and other services for off-site delivery of prepared food.
 - (7) Restaurants, carryout, including incidental delivery services.
 - (8) Restaurant, fast food without a drive-through **UNLESS IT IS ENCLOSED AND INTEGRAL TO THE STRUCTURE.**
 - (9) Restaurants, standard, and beverage establishments, including those serving beer, wine and liquor for consumption on premises only.
 - (10) Retail establishments, limited to convenience stores, food stores, drug and cosmetic stores, liquor stores and specialty stores.
 - (11) Service agencies such as real estate agencies, insurance agencies, security services, messenger services, computer services, travel agencies, mailing services.

2. Commercial Uses In Freestanding Buildings

- a. Within any Route 1 Corridor development project having at least ~~[[20]]~~ **4** gross acres of land in the CE district, the businesses listed below are permitted as the sole or primary users of a building. ~~[[The cumulative floor area of all buildings occupied by these uses shall not exceed 500 square feet per acre of CE-zoned land within the development.]]~~ These freestanding commercial buildings are allowed in addition to the commercial uses within office buildings addressed above.
 - (1) Development of freestanding commercial uses shall be phased with the development of other CE permitted uses within the project so that at no time shall the floor area of freestanding commercial uses exceed 25 percent of the total floor area of other CE uses either constructed or being constructed pursuant to approved site development plans.
 - (2) Uses Permitted As A Matter Of Right:
 - (a) Banks, savings and loan associations, investment companies, credit bureaus, brokers and similar financial institutions.
 - (b) Child day care centers.
 - (c) Restaurants, carryout, including incidental delivery services.
 - (d) Restaurant, fast food, without a drive-through.
 - (e) Restaurants, standard, and beverage establishments, including those serving beer, wine and liquor for consumption on premises only.
- b. Athletic Centers are permitted on lots that do not have any frontage on Route 1 and which have a developable area no portion of which s within 1000 feet of the Route 1 right-of-way. [Council Bill 16-2008 (ZRA-94) Effective 6/9/08]

D Accessory Uses

1. Any use normally and customarily incidental to any use permitted as a matter of right in this district.
2. Communication towers and antennas accessory to a principal use on the lot. Towers are subject to the requirements of Sections 128.E.2 and 128.E.3.
3. Private parks, swimming pools, athletic fields, exercise facilities, tennis courts, basketball courts and similar private, non-commercial recreation facilities.

E. Bulk Regulations

(Also see Section 128.A, Supplementary Bulk Regulations.)

1. Maximum Height Limitation

- a. Structure with minimum setback from a public street right-of-way 60 feet
- b. Structure with an additional 1 foot of setback from a public street right-of-way for the portion of the structure over 60 feet for every 2 feet of additional height ... 100 feet

2. Minimum setbacks for development complying with the Route 1 Manual standards
[Council Bill 3-2009 (ZRA 104) Effective 4/9/09]

The following minimum setback requirements apply to sites that comply fully with the CE zoning regulations and the Route 1 Manual's requirements:

- a. From External Public Street Right-Of-Way:
 - (1) All structures and uses, except those listed in (2) [[and]], (3) **AND** (4) 20 feet
 - (2) Parking, loading docks, outdoor storage, dumpsters and fencing
used to enclose or screen these uses 40 feet
 - (3) Amenity Areas 0 feet
 - (4) **FROM ROUTE 1 RIGHT-OF-WAY 0 FEET**
- b. From Internal Public Street Right-Of-Way:
 - (1) All structures and uses, except those listed in (2), (3) and (4) 10 feet
 - (2) Parking, except truck parking 20 feet
 - (3) Truck parking, loading docks, outdoor storage areas, dumpsters,
and fencing used to enclose or screen these uses 40 feet
 - (4) Amenity Areas 0 feet
- c. From Residential Districts
 - (1) For manufacturing, processing and assembly uses, communication
towers, and any other uses that have truck parking areas, loading docks
or outdoor storage areas:

All structures and uses 100 feet
 - (2) For all other uses:
 - (a) Structures and uses 30 feet
 - (b) Except parking, driveways, dumpsters and fencing used
to enclose or screen these uses 50 feet
 - (3) If a residential district is separated from the CE district by a public street
right-of-way, only the setbacks from a public street right-of-way shall
apply.

3. Maximum Structure Setback

As provided in the Route 1 Manual, for lots abutting U.S. Route 1, the building facade closest to Route 1 shall be located no more than 100 feet from the public right-of-way unless topography, utilities or other physical constraints make a greater setback necessary. This 100-foot setback may be increased without a variance in accordance with the Route 1 Manual.

4. Minimum Setback Requirements for Sites Not Complying with the Use Provisions of the CE District and the Route 1 Manual

The following minimum setback requirements apply to sites developed prior to the creation of the CE district that do not comply or only partially comply with the Howard County landscape manual and the Route 1 Manual:

- a. From external public street right-of-way
 - (1) Structures and uses 50 feet

ZRA 118 - Exhibit B – DPZ Proposed Revisions

(UNDERLINED CAPITALS indicates text to be added; ~~strikethrough~~ text indicates text to be deleted)

C. Commercial Uses Permitted With Limitations

3. Commercial uses within office buildings, hotels or parking structures
 - c. The uses below are permitted as a matter of right in any building used primarily for offices or parking and having at least two stories. The cumulative floor area of these uses shall not exceed ~~[[15~~ 20 percent of the floor area of the building~~]]~~ **THE AMOUNT OF THE SQUARE FOOTAGE OF THE FIRST FLOOR.**
 - d. The maximum floor area for these uses may increase to ~~[[20]]~~ 25 percent ~~(OR THE AMOUNT OF SQUARE FOOTAGE OF THE FIRST FLOOR, WHICHEVER IS LESS~~ of each office building or parking structure having at least four stories and within a route one corridor development project.
 - e. The maximum floor area for these uses may increase to 50 percent of a multistory office building located on a shallow parcel that cannot be reasonably combined with adjoining parcels to create a significantly larger redevelopment site due to adjoining environmental features, existing land use or public roads. The parcel shall:
 - (1) Exist on April 13, 2004, the effective date of Council Bill 75 - 2003; and
 - (2) Have a developable area based on zoning and subdivision regulations that is within 300 feet of the Route 1 right-of-way.
 - f. The following uses are permitted in multi-story office, hotel or parking structures:
 - (1) Athletic centers, health clubs, tennis clubs and similar uses.
 - (2) Banks, savings and loan associations, investment companies, credit bureaus, brokers and similar financial institutions with a maximum of ~~[[one]]~~ TWO drive through lane having no more than four stacking spaces, **PROVIDED, HOWEVER, THAT TWO DRIVE THROUGH LANES MAY BE PERMITTED IF THEY ARE INTEGRAL TO THE BUILDING AND ARE NOT VISIBLE FROM US 1.**
 - (3) Blueprinting, printing, duplicating or engraving services.
 - (4) Laundry and dry cleaning establishments without delivery services.
 - (5) Personal service establishments such as barber shops, beauty shops, opticians, photographers, tailors.
 - (6) Pizza delivery services and other services for off-site delivery of prepared food.
 - (7) Restaurants, carryout, including incidental delivery services.
 - (8) Restaurant, fast food without a drive-through **UNLESS IF THE DRIVE-THROUGH LANE IS ENCLOSED AND INTERGRAL TO THE STRUCTURE, AND IS NOT VISIBLE FROM US 1.**

- (9) Restaurants, standard, and beverage establishments, including those serving beer, wine and liquor for consumption on premises only.
- (10) Retail establishments, limited to convenience stores, food stores, drug and cosmetic stores, liquor stores and specialty stores.
- (11) Service agencies such as real estate agencies, insurance agencies, security services, messenger services, computer services, travel agencies, mailing services.

3. Commercial Uses In Freestanding Buildings

- a. Within any Route 1 Corridor development project having at least ~~20~~ 4 gross acres of land in the CE district, the businesses listed below are permitted as the sole or primary users of a building. ~~The cumulative floor area of all buildings occupied by these uses shall not exceed 500 square feet per acre of CE-zoned land within the development.~~ These freestanding commercial buildings are allowed in addition to the commercial uses within office buildings addressed above.
 - (1) Development of freestanding commercial uses shall be phased with the development of other CE permitted uses within the project so that at no time shall the floor area of freestanding commercial uses exceed 25 percent of the total floor area of other CE uses either constructed or being constructed pursuant to approved site development plans.
 - (2) Uses Permitted As A Matter Of Right:
 - (a) Banks, savings and loan associations, investment companies, credit bureaus, brokers and similar financial institutions.
 - (b) Child day care centers.
 - (c) Restaurants, carryout, including incidental delivery services.
 - (d) Restaurant, fast food, without a drive-through.
 - (e) Restaurants, standard, and beverage establishments, including those serving beer, wine and liquor for consumption on premises only.
- b. Athletic Centers are permitted on lots that do not have any frontage on Route 1 and which have a developable area no portion of which is within 1000 feet of the Route 1 right-of-way. [Council Bill 16-2008 (ZRA-94) Effective 6/9/08]

D Accessory Uses

- 4. Any use normally and customarily incidental to any use permitted as a matter of right in this district.
- 5. Communication towers and antennas accessory to a principal use on the lot. Towers are subject to the requirements of Sections 128.E.2 and 128.E.3.
- 6. Private parks, swimming pools, athletic fields, exercise facilities, tennis courts, basketball courts and similar private, non-commercial recreation facilities.

E. **Bulk Regulations**

(Also see Section 128.A, Supplementary Bulk Regulations.)

1. Maximum Height Limitation

- c. Structure with minimum setback from a public street right-of-way 60 feet
- d. Structure with an additional 1 foot of setback from a public street right-of-way
for the portion of the structure over 60 feet for every 2 feet of additional height ... 100 feet

4. Minimum setbacks for development complying with the Route 1 Manual standards
[Council Bill 3-2009 (ZRA 104) Effective 4/9/09]

The following minimum setback requirements apply to sites that comply fully with the
CE zoning regulations and the Route 1 Manual's requirements:

- d. From External Public Street Right-Of-Way:
 - (1) All structures and uses, except those listed in (2) [[and]], (3) **AND (4)** 20 feet
 - (2) Parking, loading docks, outdoor storage, dumpsters and fencing
used to enclose or screen these uses 40 feet
 - (3) Amenity Areas 0 feet
 - (4) **FROM ROUTE 1 RIGHT-OF-WAY** **0 10 FEET**
- e. From Internal Public Street Right-Of-Way:
 - (1) All structures and uses, except those listed in (2), (3) and (4) 10 feet
 - (2) Parking, except truck parking 20 feet
 - (3) Truck parking, loading docks, outdoor storage areas, dumpsters,
and fencing used to enclose or screen these uses 40 feet
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- f. From Residential Districts
 - (1) For manufacturing, processing and assembly uses, communication
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All structures and uses 100 feet
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 - (3) If a residential district is separated from the CE district by a public street
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5. Maximum Structure Setback

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closest to Route 1 shall be located no more than 100 feet from the public right-of-way
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